

The Director of Central Intelligence

Washington, D.C 20505

9 November 1983

Critical Intelligence Problems Committee

MEMORANDUM FOR:	Critical Intelligence Problems Committee Members and Observers	
FROM:	,	25 X 1
	Executive Secretary	
SUBJECT:	Backup Material for the CIPC Meeting - 15 November 1983	25X1
hours, 15 Novemb	d is the material for the CIPC meeting scheduled for 1600 er. ent 1 contains the material relative to the Narcotics Study;	25X1
it is self-expla		25X1
	chment 2 is an amended TOR proposed by the	25X1
	ion dealing with Technology Transfer is somewhat contentious Group Chairman will be seeking your guidance on how best to	25 X 1
proceed on this	subject.	25X1
4. The Cha	irmen of the Narcotics Working Groups and the	25X1
Chairman of the any questions you	Narcotics Subpanel will be present at the meeting to answer	25X1
•		23/1
meeting. Your c	Attachment 3 are the draft minutes for the Sixth CIPC pordination is requested by <u>COB 17 November 1983</u> . Lack of construed as concurrence.	25X1
6. If I ça	n be of further assistance, please let me know.	25X1
		,
Attachments: As Stated (Att 2-Obs Exc	luded) ^{25X1}	

TOP SECRET

The Director of Central Intelligence Washington, D.C 20505

Critical Intelligence Problems Committee

DCI/ICS 83-3897 November 8, 1983

SUBJECT: CIPC Narcotics Study 1. At the 11 October 1983 meeting of the CIPC, there was general support among the members for the report prepared by the CIPC Narcotics Working Group entitled: The International Narcotics Coordination and Collection Study. The NSA member stated that NSA required additional time to review the report and submit formal comments. These comments have now been received from NSA. We have also received oral suggestions from DEA. The resulting proposed changes to the report are shown in line-in, line-out format at Tab A. 2. Also at the 11 October meeting, reference was made to the fact that, as an adjunct to the CIPC Narcotics Working Group, a separate interagency panel had been established to recommend policies for the Intelligence Community that will enhance the flow of intelligence concerning narcotics to designated law enforcement agencies, while protecting the security of intelligence sources and methods. It was our intent that the work of that panel be completed in time for consideration at the 15 November 1983 CIPC principals' meeting. Unfortunately, despite an intense level of effort, it has not been possible for the panel to meet that deadline. Provided at Tab B for your information is an interim report from the Chairman, Panel on Security Considerations.	MEMORANDUM FOR:	Critical Intelligence Problems (Observers	Committee Members and
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25X1	among the member entitled: The I NSA member, report and submi NSA. We have all changes to the report and as an adjunct to panel had been e Community that we designated law e intelligence sou panel be complet principals' meet has not been posfor your information and the substitute of the substitute o	stor the report prepared by the nternational Narcotics Coordinati stated that NSA required adt formal comments. These comments received oral suggestions from eport are shown in line-in, line-the 11 October meeting, reference the CIPC Narcotics Working Group stablished to recommend policies ill enhance the flow of intelligenforcement agencies, while protected in time for consideration at the ting. Unfortunately, despite an issible for the panel to meet that	CIPC Narcotics Working Group ion and Collection Study. The diditional time to review the diditional time to review the shave now been received from DEA. The resulting proposed out format at Tab A. 25% of the Enternal Dead of the Security of the Intelligence ence concerning narcotics to the security of
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3. During the deliberations of the Panel on Security Considerations, it
became increasingly apparent to the members that many of the security policy
issues being discussed had significant legal implications. At the same time,
partially as a result of issues raised by the Panel, we understand that there
have been discussions among some Community General Counsels and with
representatives of the Justice Department with respect to narcotics-related
legal matters. Questions such as how best to protect intelligence sources an
methods when intelligence data has been a contributor to a criminal
prosecution quite clearly require careful legal attention in support of polic
decisions. It seems equally clear that these types of legal deliberations
will not reasonably be completed in the near future.

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4. There is a pressing requirement to move ahead with CIPC final review and approval of The International Narcotics Coordination and Collection Study. This need is predicated in large measure on the need to use this study as a major input to a request by the Senate Select Committee on Intelligence (SSCI) in its classified report on the FY 1984 budget. The SSCI requested that the Intelligence Community report by 31 December 1983 on a number of actions related to narcotics, to include a comprehensive collection and analysis plan to guide the development of additional capabilities needed in FY 1985 and beyond to support drug control objectives of the US. (Further details concerning this SSCI request are at Tab C.)

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- 5. Based on the foregoing discussion, it is recommended that the CIPC members take the following actions at the 15 November meeting:
 - a. Approve for forwarding to the DCI the CIPC Narcotics Working Group report entitled The International Narcotics Coordination and Collection Study. The changes contained at Tab A will be discussed at the November 15 CIPC meeting.
 - b. Note the interim report of the Chairman, Panel on Security Considerations (Tab B) and request that that Panel continue its deliberations with the objective of providing a final report to the CIPC at its first meeting after 1 January 1984.
 - c. Request the CIA General Counsel to convene a legal panel with representatives, as appropriate, from the intelligence and law enforcement communities to address such issues as:
 - reviewing existing procedures relating to possible disclosure of sensitive source/method information in criminal narcotics prosecutions or other legal proceedings and, where required, initiating action to improve these procedures;

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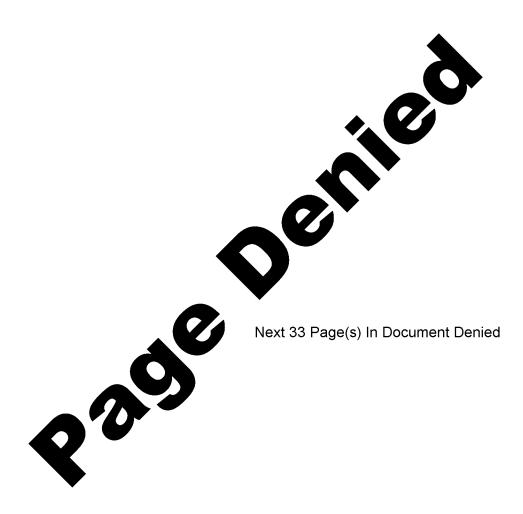
•	considering whether or not existing laws and Executive
	Rranch directives pertaining to foreign narcotics
	collection by the Intelligence Community provide an
	adequate basis for action on the part of the Community,
	and making recommendations for amendment as appropriate;

and report results to the CIPC by 1 March 1984.	25X1
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DCI/ICS 83-3894 8 November 1983

MEMORANDUM FOR:	Vice Chairman, Critical Intelligence Problems Committee Chairman, Narcotics Working Group	
FROM:	Chairman, Panel on Security Considerations	
SUBJECT:	Status Report	25X ²
Panel members) to consider security to drug law enformuch work has been possible to for consideration summarize for your differences exist positions; however the members them 2. The Par provisions of congencies. Among	nel agrees that certain risks do exist with respect to the lassified foreign intelligence to the drug law enforcement	25X [,]
ackı pro	nowledge this deficiency to varying degrees. All have grammed major upgrades and the Panel is agreed that the elligence Community should support those improvements.	25X′
the for disc info	enforcement agencies may not be classifying all information in in possession which meets the criteria for classification set the in Executive Order 12356, i.e., information the unauthorized closure of which would damage national security. For example, ormation which an enforcement agency collects independently may seed affect national security but be handled under internal	
		25X ²

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administrative procedures to protect privileged information-procedures which may be less stringent than those required for classified information. This situation is especially disturbing if the information in question happens to be collected by sources and methods which the foreign intelligence community itself uses, e.g., communications monitoring. Considering that those collection capabilities are frequently built and operated with the training and assistance of the Intelligence Community, or employ former intelligence officers whose skills were developed in the Intelligence Community, the Panel is concerned that a compromise of such information could provide a hostile intelligence service valuable insight into comparable foreign intelligence sources and methods. Moreover, as illegal drug operations become more sophisticated--and considering the money available to them that is a reasonable expectation--collection operations and analytic functions will likewise have to become more sophisticated. As the complexity of the target increases, the consequences of compromising intelligence sources and methods will also increase. The Panel is largely agreed that this matter needs further attention although the SIGINT Committee representatives point out that the DCI approved definition of COMINT contained in the SISR, Part I, specifically excludes law enforcement operations.

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• There are continuing questions with respect to the basic authority and responsibility of law enforcement agencies to classify drug enforcement information. GSA's Information Security Oversight Office (ISOO), the element charged by Executive Order 12356 to oversee operations of the Classified Information System, recently stated that "wholly drug enforcement information" was not classifiable because it does not affect foreign policy or national security. The unfortunate impact of that ruling may be to "chill" recent law enforcement community's efforts to tighten security.

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Not all of the Panel sees this as a problem worth addressing. The NSA and OGC representatives regard the matter as moot because ISOO has since been persuaded that the information in question was obtained through classified techniques taught the Coast Guard by NSA, and was therefore classifiable. The representative of the Office of the Vice President, however, sees this as a major issue. He would have the DCI employ his statutory authorities to protect intelligence sources and methods to advise ISOO of an authoritative "finding" that information indirectly derived from intelligence collection techniques is classifiable. Most other members of the Panel agree that the problem should be addressed but are uncertain of the solution.

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	nce, ultimate contr the judicial syste	lligence is	

The NSA and OVP representatives have been the most vocal proponents of such initiatives. They argue that the Intelligence Community needs such endorsement if it is to deal effectively with the other elements of this situation. Other Panel members however see such documents of ephemeral benefit and as difficult to staff.

document would presumably address the narcotics problem in general, any statement of concern from the President would lend considerable support to security-related initiatives, such as the funding of programs to upgrade secure communication or ADP by law enforcement agencies. It could also clarify questions about

whether drug-related intelligence is classifiable.

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•	Convey Intelligence Community concerns to cognizant Cabinet level officers. At issue here are (1) a proposal that the DCI send letters to the Secretaries of Transportation and Treasury and the Attorney General, advising of Intelligence Community security concerns and offering assistance in resolving them, and (2) a proposal that the DCI dispatch a letter to the various elements of the law enforcement community supported by foreign intelligence advising of dangers to sources and methods, pointing out that such intelligence should only be used with prior consent and only as a lead to develop alternative evidence.	
	The Panel is divided on the question of whether such letters are	-
	necessary or whether lower level staff actions are more	OEV.
	appropriate.	25 X ′
•	The DCI should issue overall guidance for Intelligence Community support to law enforcement and encourage Community members to conclude Memoranda of Understanding (MOU) with the law enforcement agencies they support, detailing their particular arrangements. The guidance would outline such matters as the need for sanitization, administrative control, prior consent for use as evidence, assurance of physical security, whatever legal guidance might come out of the Intelligence CommunityDepartment of Justice consultations that were alluded to earlier, etc.	
	There appears to be a consensus among the Panel that such guidance	
	would be useful, although some argue it already exists in published documents. (The SIGINT Committee representatives would, in fact, extend that argument to most other issues as well.) As for the MOU, NSA and CIA are in the process of negotiating MOUs with one or more law enforcement elements.	25X ²
	though the Panel remains divided on a number of particulars, it has everal general conclusions:	•
•	There is no evident reason why the Intelligence Community ought to stop or slow its support to the law enforcement community. The risks presently entailed appear to be acceptable. Indeed, there are encouraging developments such as law enforcement programs for ungrading communications and computer security which speak well	

for expanding current levels of support.

agreed

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Efforts to expand intelligence support will require patience and determination. The legal problems involved are complex and will require time to resolve. Problems involving security practices and procedure are likewise complex and rooted in basic differences between the perspectives of the intelligence and law enforcement communities. The former is heavily concerned with the protection of sources and methods, the latter with successful prosecutions of drug law violators. Reconciling these two sometimes conflicting points of view will require time and determination on the part of both parties.

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 In general, Intelligence Community efforts to drug law enforcement should be guided, inter alia, by (1) the expectation that its efforts may well be subjected to scrutiny by the courts, and (2) recognition that a major security compromise could produce a backlash against foreign intelligence support to law 	
enforcement.	25X1
5. In sum, the Panel has proven productive in several respects. It has surfaced and illuminated a number of issues. It has aired differences among the Community on those issues, and it has resolved some of those differences. I do not expect that the Panel will be able ultimately to resolve all such differences, but I do believe it can produce a set of recommendations on which the Community can proceed in general agreement. (C)	25X1
Attachments:	
Attachments: As stated	

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SUBJECT: Status Report (U)

Distribution: DCI/ICS 83-3894

1 - VC/CIPC

1 - C/NWG

1 - ES/CIPC

1 - CIPC/GWhite

1 - CIPC/JKelly

1 - ICS Registry

DCI/ICS/CIPC/ (8 November 1983)

DCI/ICS 83-3858 19 September 1983

TERMS OF REFERENCE

CIPC Narcotics Working Group's

Panel on the Use of Classified Intelligence Information by Drug Enforcement Agencies

1. Background:

. •:

The production, trafficking, and abuse of drugs have become problems of national proportions. The Vice President has called for the full cooperation and coordination of US departments and agencies in supporting the US drug interdiction program. Increasingly the resources of the Intelligence Community are being called upon to assist US law enforcement efforts. The Director of Central Intelligence has convened a working group under the auspices of the Critical Intelligence Problems Committee (CIPC) to consider the adequacy of intelligence support to US international narcotics control efforts. Throughout the working group's deliberations, questions have recurred regarding the constraints which classification may impose on the effective utilization of intelligence by drug enforcement agencies. general the problem is how to maximize dissemination to and use of intelligence by law enforcement agencies while maintaining appropriate security standards for that intelligence. The complexity of that problem in the drug enforcement context has dictated that a separate panel--this panel-be established to focus on it exclusively.

2. Mission:

- A. This Panel will recommend policies for the Intelligence Community that will enhance the flow of intelligence concerning narcotics to designated US law enforcement agencies for the purposes of interdiction and prosecution while maintaining the security of that information and the protection of intelligence sources and methods.
- B. The Panel will focus on three aspects of that overall mission:
 - Security standards used by drug enforcement agencies.
 - Protection of sources and methods against indirect compromise.
 - Use of intelligence and intelligence-derived information in preparing for trial.

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3. Security Standards:

- A. The first aspect of this problem arises with respect to the quality of physical and personnel security standards required to protect classified intelligence information, as opposed to those required for privileged (but unclassified) information held by law enforcement agencies. Standards observed by the Intelligence Community are much more stringent. Law enforcement agencies appear to be reluctant to accept the greater burden which the standards for classified material involve, and have resisted pressures to observe them. Hence, agencies in the Intelligence Community are concerned that material they provide law enforcement agencies may not be adequately protected.
- A corollary concern is that information developed by law enforcement В. agencies is not being classified at all. E.O. 12356 allows information to be classified only if its unauthorized disclosure "could reasonably be expected to cause damage to our national defense or foreign relations." On that basis privileged information developed by law enforcement agencies, such as that obtained from informants, has heretofore not been classified. Its confidentiality has been protected by administrative procedure and evidentiary privilege. Now, however, law enforcement agencies are beginning to develop information through established intelligence means, which may have implications for national security. Also they are producing increasing amounts of information derived from classified material provided them directly by national intelligence elements. A question has therefore arisen as to whether such "derivative intelligence," i.e., derived through either established intelligence methods or from original intelligence sources, should be interpreted to meet E.O. 12356 classification standards.

4. Protection Against:

agencies aggressively pursuing leads provided by US intelligence.	25
In SIGINT, the concern is that law enforcement agencies are developing collection programs which use established national intelligence collection techniques.	25

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5. Use of Intelligence in Trials:

- A. The third aspect of the problem stems from federal criminal procedures which enable a defendant to seek through a discovery motion relevant information regarding any evidence presented by the prosecution. A GAO report to the Congress on Federal Drug Interdiction Efforts (GAO/GGD-83-52, June 13, 1983) offers the following example:
 - "... if a secret military system were used to detect an aircraft which culminated in the arrest of the pilot for drug trafficking, the defendant might be able to show a need to know that he was detected by the military system. Depending on the case, there was concern that a judge could require disclosure of the technical specifications of the system that resulted in the detection. This concern is expressed in view of the principle that the judiciary controls the evidence in a criminal trial and on the possibility that a defendant could successfully demonstrate a need for such evidence."
- B. The same report goes on to explain that classified information is provided certain protections:
 - where national security secrets are likely to arise in the course of criminal prosecutions. On October 15, 1980, Congress passed Public Law 95-456, the Classified Information Procedures Act. This law provides certain pretrial, trial, and appellate procedures for criminal cases involving classified information. For example, it provides pretrial procedures that permit a trial judge to rule on questions of admissibility involving classified information before introduction of the evidence in open court. The purpose of this particular procedure is to permit the Government to ascertain before trial the potential damage to national security. Under this procedure, the judge determines whether and the manner in which the information in issue may be used in a trial or pretrial proceeding."

The Classified Information Procedures Act therefore reduces the jeopardy to classified material in judicial proceeding. The Act does not, however, alter the final possibility that classified material may indeed be essential to the defendant's case. If so, the Government will be faced with deciding whether to present the evidence in court, proceed without the evidence, or drop the prosecution altogether.

6. Objectives:

- A. Recommend appropriate policies to govern the security of classified narcotics intelligence information while enhancing the use of that information to support the US drug enforcement program.
- B. Recommend procedures to minimize the possibility of indirect compromise of sources and methods thru narcotics intelligence provided to drug enforcement agencies.

C. Recommend intelligence support processes for drug enforcement that will enable drug agencies to develop evidence independently and reduce the likelihood that intelligence sources and methods will be regarded essential to a criminal defendant's case; in effect, build a firebreak in the evidentiary trial leading to sources and methods.

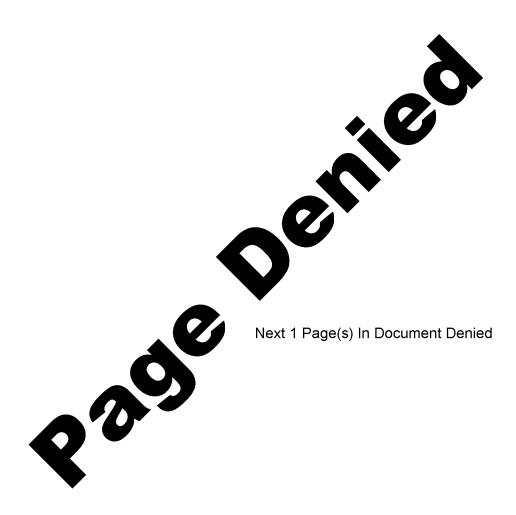
7. Study Tasks:

- Examine Community procedures for the dissemination of narcotics intelligence to law enforcement agencies.
- Examine Community requirements for the security of narcotics intelligence information, including physical, personnel, and document security.
- Examine the ability of the law enforcement community to protect intelligence in accordance with Intelligence Community requirements.
- Examine law enforcement needs and determine whether Community security requirements inhibit the ability to respond fully.
- Determine appropriate policies and procedures on dissemination and security of intelligence.
- Determine the need for restrictions on use of intelligence information, sources, and methods at the analytical, investigatory, interdiction and prosecutional stages.
- Determine how drug agencies can establish independent evidence to build a "firebreak" to protect intelligence equities at the trial stage.

8. Additional Tasks:

- Review and, as appropriate, advise on:
 - Use of classification to protect law enforcement equities.
 - Need for explicit classification authority by drug agencies.
 - Extent to which revelation of law enforcement sources and methods can jeopardize intelligence sources and methods.
 - Extent to which uniform procedures are needed within the Intelligence Community to govern provision of information to the drug enforcement agencies.

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Meetings:	
This panel will assemble each Friday morning at 1000 hours, or more frequently as required.	
Report Schedule:	
An interim report is due to the Narcotics Working Group by 21 September. A final report to the CIPC will be due 17 October.	
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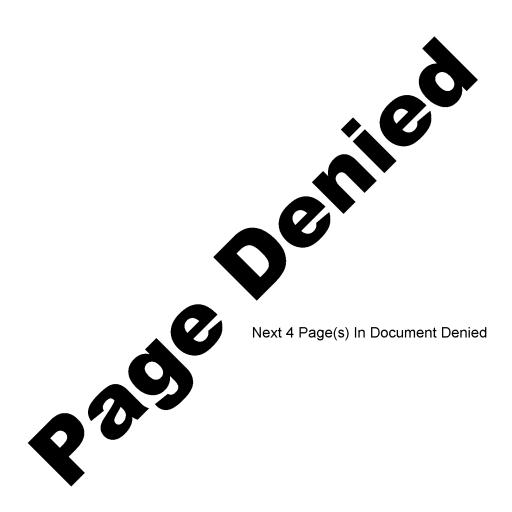
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MEMORANDUM FOR	Chairman, Critical Intelligence Problems Committee	25 X ′
FROM:	Director, Intelligence Community Staff	25 X ′
SUBJECT:	Congressionally Directed Actions from Senate Select Committee on Intelligence Classified Annex	
REFERENCE:	SSCI Report on FY 1984 NFIP Budget, dated 12 May 1983	25X′
undertaken by concerns. One involves narco lead in prepar 2. As im should partici in the final r - A condeve	FY 1984 budget, included a number of requests for actions to Community elements in response to specific congressional request, identified on pages 15 & 16 of the referenced reptics intelligence. It is requested that your committee taking and coordinating the appropriate response. plied in the SSCI report, representatives from the Community pate in this study effort. Questions that should be addressed eport include: Imprehensive collection and analysis plan to guide the lopment of additional capabilities needed in FY 1985 and becomported drug control objectives of the US;	ort, e the 25X ² y sed
to a prod - The s	changes needed to community production planning and schedulic ccommodate increased outputs of finished narcotics intellige ucts; and substantive improvements needed to existing intelligence bilities	ing ence 25X1 25X1 25X1
	to include specific levels of resources needed for ematic implementation of needed capability.	25X′
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Legislative Liaison Staff by 23 November it is <u>forwarded to the committee</u> . Materi	al should not be sent directly to the
Hill. should be kept apprised	of the progress of the effort as it 25X1
evolves, and should be consulted if any	
	25X1

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The Director of Central Intelligence

Washington, D.C 20505

DCI/ICS 83-3896

CIPC-M-06

Critical Intelligence Problems Committee

25 October 1983

FROM:		25
	Executive Secretary	
SUBJECT:	Draft Minutes of the Sixth CIPC Meeting, 11 October 1983 (1600-1700 Hours)	25
1600 hours, 11 complexity of t	October 1983. Miss Page announced that in view of the the primary agenda itemThe International Narcotics	
	d Collection Studymaximum time would be provided to	٥٢
2. The Ch	nairman also announced that the Cruise Missile Study, which we	as
2. The Ch		
2. The Ch considered by 1 publication, an	nairman also announced that the Cruise Missile Study, which w the Committee at its last meeting, is being prepared for	as ure
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5.	began his overview by stating that he was	pleased that the	25X1
	s meeting to review and discuss the study. He no	·	
	i birth of the study had caused a number of conc		25X1
. •	that the major problems central to the exercise		
•	the Executive Summary of the study. He noted		
problem was po	posed by the question, "what do we mean by narco	tics	
intelligence?"			25X1
to develop red	ecommendations for intelligence support to the la	aw enforcement	
organizations	and just how the Intelligence Community could	improve	
intelligence s	support to senior policymakers. point	ted out that the	25 X 1
absence of an	n agreement within the Federal Government on a na	arcotics control	
	e it difficult to assess resource allocations to		
supply of narc	cotics, and for interdiction and investigative :	strategies, or to	
make recommend	ndations for enhancing intelligence collection a	nd production. He	
noted that ser	erious policy and legal issues prevailed on the	question of	-
national intel	elligence capabilities being used to support law	enforcement	
activities. T	The contentiousness of this latter point, however	er, may result	
from perception	ions rather than fact. informed the Co	ommittee that	25X1
there are also	so concerns about protection of intelligence sour	rces and methods	
and the Fourth	th Amendment, all of which are deeply imbedded in	the marcotics	
problem and re	remain unresolved. stated that the leg	gal domain in	25 X 1
which the Inte	telligence Community can operate must be identif	ied.	25X1
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6. In di	discussing the accomplishments of the Working Gro	oup, he cited its	
ability to for	orm a community of diverse interests and to work	together for a	
six-to-seven-m	month period in <u>an atmosphe</u> re of candor and coop	peration to	
produce the na	narcotics study. noted that the study	and effort of the	25X1
Working Group	have complemented the activities of the NIO for	Narcotics.	25X1
7.	reported that the Narcotics Study contained	ed 54	25 X 1
recommendation	ons which, if adopted, would make major inroads i	n the narcotics	
intelligence f	field. He said that some Community activities \mathbf{v}	ere either under	
way or had bee	en developed during the Working Group's efforts.	He cited as an	05144
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8. In conclusion, stated he would welcome the Committee's comments and recommendations on the study. He expressed his belief in a need to sustain the narcotics community, and an ongoing need for assuring the closest Community coordination on narcotics activities. He also noted there was a requirement to develop an efficient and effective process for evaluating our progress in this field and a commitment of resources. thanked all of the agencies who participated in the Working Group and reported they had all worked very hard in developing the study. He particularly thanked Mr. CIPC staff, who served as principal drafter of the study, and CIPC staff, who also assisted in the preparation of the study. 9. Miss Page thanked for his excellent overview, and stated	i g 25
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community functioning together and recommended that the Narcotics Working become a permanent subcommittee of the CIPC to ensure continuing	25X 25X

